

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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MARTIN LUTHER BASKERVILLE, JR,

Petitioner,

v.

STATE OF NEW JERSEY, COUNTY OF  
BERGEN, BERGEN COUNTY SHERIFF'S  
DEPARTMENT, BERGEN COUNTY  
PROSECUTOR'S OFFICE, STATE OF NEW  
YORK, NEW YORK COUNTY DISTRICT  
ATTORNEY'S OFFICE, JOHN DOES 1  
THROUGH 20,

Defendants.

2:18-cv-9873-CCC

**Petitioner's Reply to State of NJ's  
Answer to Habeas Petition**

Petitioner Martin Baskerville respectfully files this reply to the State of New Jersey's answer filed November 22, 2019, ECF28, which responded to the Petition for habeas corpus petition of Baskerville filed August 31, 2018, ECF6.

1. At the core of this petition, Mr. Baskerville maintains that he was incarcerated in Bergen County Jails on April 4, 1989, when on that specific date, he was alleged to have committed a homicide in New York, New York, for which he was later charged and convicted in New York.

2. On page 7 of the State of New Jersey's answer to the petition, it states in relevant

part:

On October 1, 2015, the judge granted defendant 1693 days of jail credit for the following periods, many days of which defendant already had received credit in prior judgments: December 25, 1987 to May 7, 1988; **February 20 [1989] to August 15, 1989**; August 16, 1989 to November 21, 1990; December 19, 1990 to December 17, 1992; and February 18 to September 1, 1993. (ECF #6-7 at 106). The judge also ordered certain amendments to defendant's pre-sentence report. (ECF #6-7 at 106 to 107).

Emphasis added

3. In his petition and in various State of New Jersey proceedings, Mr. Baskerville has made repeated allegations that the State of New Jersey had failed to record his dates of incarceration inclusive of April 4, 1989; that the State of New Jersey had failed to disclose his dates of incarceration inclusive of April 4, 1989; and that the State of New Jersey had failed to inform the courts of the State of New Jersey and of New York, when information was sought, that Mr. Baskerville was in fact incarcerated in Bergen County Jail on his dates of incarceration inclusive of April 4, 1989.

4. In response to the petition, the State of New Jersey has now admitted that Mr. Baskerville had been, in fact, incarcerated on those dates inclusive of April 4, 1989, but has still failed to provide pertinent records that would enable Mr. Baskerville to prove that he was, in fact, incarcerated to the satisfaction of other tribunals.

5. On or about October 2, 2018, Baskerville's counsel, Kimm Law Firm, filed a motion to vacate conviction in the State of New York, the Supreme Court, County of New York, where he was wrongfully convicted for an alleged April 4, 1989, homicide, on the grounds of actual innocence on the basis of being jailed in Bergen County during the dates

inclusive of April 4, 1989. In May 2019, the New York County Supreme Court denied Baskerville's petition, on procedural grounds.

6. The procedural grounds were because the evidence accessible to Mr. Baskerville came only in the form of court jail credits with no underlying records. The underlying records pertaining to proof of Mr. Baskerville's arrest; initial detention; finger printing, mug shot, inmate processing; and related records have been withheld by the State of New Jersey to the detriment of petition under Brady v. Maryland.

7. Because of the continued withholding of evidence, Baskerville is entitled to discovery and compelled process issued by the Court to coerce the State of New Jersey to produce such basic records as outlined in paragraph 6.

WHEREFORE, petitioner respectfully requests that (1) the State of New Jersey be compelled to produce the full range of jail records; (2) the Court grant the relief requested in the petition in its entirety.

Dated: February 3, 2020

/s/ Michael Kimm  
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